

Page 1 of 2

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-1746-MWD-E TCEQ ID: RN102800356 CASE NO.: 34845**  
**RESPONDENT NAME: Port Terminal Railroad Association**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Port Terminal Railroad Association WWTP, located inside the North Railroad Yard, approximately 400 feet east of North Wayside Drive and 600 feet north of Clinton Drive, approximately 4.5 miles due east of the downtown Houston Central Business District, Harris County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility for a railroad classification and maintenance yard</p> <p><b>SMALL BUSINESS:</b>    <input checked="" type="checkbox"/> <b>Yes</b>    <input type="checkbox"/> <b>No</b></p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 10, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>     <b>TCEQ Attorney/SEP Coordinator:</b> None     <b>TCEQ Enforcement Coordinator:</b> Mr. Rajesh Acharya, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-0577;     Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171     <b>Respondent:</b> Mr. Marvin Wells, General Manager, Port Terminal Railroad Association, 8934 Manchester Street, Houston, Texas 77012     <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 30, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> October 3, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review.</p> <p><b>WATER</b></p> <p>Failed to comply with the permit effluent limits for total suspended solids [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11773001, Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)].</p>	<p><b>Total Assessed:</b> \$2,840</p> <p><b>Total Deferred:</b> \$568  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,272</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent, on October 29, 2007, submitted documentation to the TCEQ identifying the causes of the effluent noncompliances and the corrective measures implemented to ensure permit compliance and documenting compliance with the effluent limits of TPDES Permit No. 11773001. Specifically, the causes of the effluent limit noncompliances were identified as changes by the Respondent's cleaning contractors to volumes and/or types of cleaning agents that impacted the treatment plant performance and effluent quality. The Respondent reported that they are now requiring the cleaning contractor to provide written documentation detailing the type of cleaning products being used and to notify the Respondent in writing prior to making any changes in the future.</p>

Additional ID No(s): WQ0011773001



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision September 19, 2007

TCEQ  
DATESAssigned 8-Oct-2007  
PCW 29-Oct-2007

Screening 23-Oct-2007

EPA Due

## RESPONDENT/FACILITY INFORMATION

Respondent Port Terminal Railroad Association  
Reg. Ent. Ref. No. RN102800356  
Facility/Site Region 12-Houston

Major/Minor Source Minor

## CASE INFORMATION

Enf./Case ID No. 34845  
Docket No. 2007-1746-MWD-E  
Media Program(s) Water Quality  
Multi-Media  
Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000No. of Violations 1  
Order Type 1660  
Enf. Coordinator Catherine Albrecht  
EC's Team Enforcement Team 1

## Penalty Calculation Section

## TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$2,000

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 52% Enhancement

Subtotals 2, 3, &amp; 7 \$1,040

Notes

The Respondent has one NOV for same or similar violations, nine self-reported effluent violations, and one NOV for other violations.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

10% Reduction

Subtotal 5 \$200

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes

The Respondent completed corrective actions on October 29, 2007.

0% Enhancement\*

Subtotal 6 \$0

\*Capped at the Total EB \$ Amount

Total EB Amounts	\$41
Approx. Cost of Compliance	\$1,000

## SUM OF SUBTOTALS 1-7

Final Subtotal \$2,840

## OTHER FACTORS AS JUSTICE MAY REQUIRE

0%

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$2,840

## STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$2,840

## DEFERRAL

20%

Reduction

Adjustment -\$568

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

## PAYABLE PENALTY

\$2,272

Screening Date 23-Oct-2007

Docket No. 2007-1746-MWD-E

PCW

Respondent Port Terminal Railroad Association

Policy Revision 2 (September 2002)

Case ID No. 34845

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN102800356

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	10	50%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 52%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

The Respondent has one NOV for same or similar violations, nine self-reported effluent violations, and one NOV for other violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 52%

<b>Screening Date</b> 23-Oct-2007		<b>Docket No.</b> 2007-1746-MWD-E		<b>PCW</b>
<b>Respondent</b> Port Terminal Railroad Association		<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 34845		<i>PCW Revision September 19, 2007</i>		
<b>Reg. Ent. Reference No.</b> RN102800356				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Catherine Albrecht				
<b>Violation Number</b>	<div style="border: 1px solid black; padding: 2px;">1</div>			
<b>Rule Cite(s)</b>	<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 305.125(1), TPDES Permit No. 11773001, Effluent Limitations and Monitoring Requirements No. 1, and Tex. Water Code § 26.121(a)</div>			
<b>Violation Description</b>	<div style="border: 1px solid black; padding: 2px;">Failed to comply with the permit effluent limits. See attached table.</div>			
<b>Base Penalty</b>				<div style="border: 1px solid black; padding: 2px;">\$10,000</div>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	Major	Moderate	Minor	
	Actual	Potential	Percent	<div style="border: 1px solid black; padding: 2px;">10%</div>
	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px; text-align: center;">x</div>	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>
				<div style="border: 1px solid black; padding: 2px;">Percent <div style="border: 1px solid black; padding: 2px;">0%</div></div>
<b>Matrix Notes</b>	<div style="border: 1px solid black; padding: 2px;">Failure to comply with the permit limits resulted in the exposure of an insignificant amount of contaminants which did not exceed levels protective of human health and the environment.</div>			
<b>Adjustment</b>				<div style="border: 1px solid black; padding: 2px;">\$9,000</div>
				<div style="border: 1px solid black; padding: 2px;">\$1,000</div>
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<div style="border: 1px solid black; padding: 2px;">2</div>	<b>Number of violation days</b>	
		<div style="border: 1px solid black; padding: 2px;">92</div>		
mark only one with an x	daily	<div style="border: 1px solid black; padding: 2px;"></div>		
	monthly	<div style="border: 1px solid black; padding: 2px;"></div>		
	quarterly	<div style="border: 1px solid black; padding: 2px; text-align: center;">x</div>		
	semiannual	<div style="border: 1px solid black; padding: 2px;"></div>		
	annual	<div style="border: 1px solid black; padding: 2px;"></div>		
	single event	<div style="border: 1px solid black; padding: 2px;"></div>		
<b>Violation Base Penalty</b>		<div style="border: 1px solid black; padding: 2px;">\$2,000</div>		
<div style="border: 1px solid black; padding: 2px; text-align: center;">Two quarterly events are recommended.</div>				
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>		<div style="border: 1px solid black; padding: 2px;">\$41</div>	<b>Violation Final Penalty Total</b>	
			<div style="border: 1px solid black; padding: 2px;">\$2,840</div>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<div style="border: 1px solid black; padding: 2px;">\$2,840</div>	

**Economic Benefit Worksheet**

Respondent Port Terminal Railroad Association

Case ID No. 34845

Reg. Ent. Reference No. RN102800356

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	1-Jan-2007	29-Oct-2007	0.8	\$41	n/a	\$41

Notes for DELAYED costs

Estimated costs of additional inspection and process control testing to identify the causes of the effluent violations and implement corrective measures to reduce and/or eliminate the cleaning agents used at the complex that are incompatible with the treatment process. Date required is the first violation month. Final date is the implementation of the corrective actions.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$41

Respondent: Port Terminal Railroad Association  
ID Number: RN102800356  
Docket Number: 2007-1746-MWD-E  
Enf. Coordinator: Catherine Albrecht

Corresponds to Violation 1:

OUTFALL OO1 INTERIM EFFLUENT LIMITS

Month/Year	TSS Dly Avg Loading Limit of 1.1 (in lbs/day)	TSS Dly Avg Concentration Limit of 15.0 (in mg/L)
Jan-07	3.04	29.8
Mar-07	1.45	19.8
Apr-07	c	39.4

Abbreviations: Total Suspended Solids ("TSS")  
Daily Average ("Dly Avg")  
pounds per day ("lbs/day")  
milligrams per liter ("mg/L")  
compliant ("c")





## Compliance History

Customer/Respondent/Owner-Operator:	CN600373138	Port Terminal Railroad Association	Classification: AVERAGE	Rating: 2.22
Regulated Entity:	RN102800356	PORT TERMINAL RAILROAD ASSOCIATION WWTP	Classification: AVERAGE	Site Rating: 0.64
ID Number(s):		WASTEWATER WASTEWATER WASTEWATER WASTEWATER WASTEWATER WASTEWATER LICENSING	PERMIT EPA ID PERMIT PERMIT PERMIT LICENSE	WQ0011773001 TX0070645 WQ0011773001 TPDES0070645 TX0070645 WQ0011773001
Location:	Inside the North Railroad Yard, approximately 400 feet east of North Wayside Drive and 600 feet north of Clinton Drive, approximately 4.5 miles due east of the downtown Houston Central Business District, Harris County		Rating Date: 9/1/2007	Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: October 17, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 17, 2002 to October 17, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Catherine Albrecht Phone: (713)767-3672

### Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A

B. Any criminal convictions of the state of Texas and the federal government.  
N/A

C. Chronic excessive emissions events.  
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 10/25/2002 (196875)  
 2 11/25/2002 (196879)  
 3 02/10/2003 (196886)  
 4 03/06/2003 (196851)  
 5 09/19/2003 (311820)  
 6 09/19/2003 (311822)  
 7 10/27/2003 (311825)  
 8 11/14/2003 (311816)  
 9 11/14/2003 (311818)  
 10 12/15/2003 (311827)  
 11 01/12/2004 (311829)  
 12 02/17/2004 (311831)  
 13 03/08/2004 (311810)  
 14 03/31/2004 (311813)  
 15 05/12/2004 (358734)  
 16 05/18/2004 (269151)  
 17 06/09/2004 (358735)  
 18 07/14/2004 (358736)  
 19 07/19/2004 (283016)  
 20 07/29/2004 (358737)  
 21 09/01/2004 (358738)  
 22 10/11/2004 (358739)  
 23 11/04/2004 (385526)  
 24 11/10/2004 (340761)  
 25 11/23/2004 (385527)  
 26 01/18/2005 (385528)

27 03/07/2005 (385525)  
 28 04/11/2005 (423548)  
 29 05/13/2005 (423549)  
 30 06/21/2005 (423550)  
 31 09/13/2005 (444357)  
 32 09/13/2005 (444358)  
 33 10/24/2005 (474898)  
 34 12/14/2005 (474899)  
 35 01/11/2006 (474900)  
 36 02/24/2006 (474901)  
 37 03/10/2006 (474897)  
 38 04/14/2006 (502561)  
 39 05/24/2006 (502562)  
 40 08/09/2006 (524881)  
 41 08/09/2006 (524882)  
 42 08/09/2006 (524883)  
 43 10/02/2006 (584005)  
 44 10/04/2006 (490311)  
 45 10/19/2006 (584006)  
 46 12/04/2006 (584007)  
 47 12/04/2006 (584008)  
 48 01/10/2007 (584009)  
 49 03/12/2007 (584001)  
 50 04/30/2007 (584002)  
 51 06/04/2007 (584004)  
 52 06/13/2007 (584010)  
 53 06/13/2007 (584003)  
 54 06/29/2007 (565530)  
 55 07/10/2007 (567010)  
 56 10/04/2007 (574288)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 12/31/2002 (196886)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2003 (196851)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2003 (311831)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2004 (311810)  
 Self Report? YES, Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2004 (358734)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/17/2004 (269151)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to accurately measure flow.

Date: 04/30/2005 (423550)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/03/2006 (490311)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 30 TAC Chapter 317 317.6(b)(3)[G]  
 Description: Failure to properly operate and maintain the chlorine contact basin.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: OP Effluent Limits & Monitoring Req'nts #2.  
Description: Failure to maintain compliance with permitted effluent limits for chlorine residual.  
Self Report? NO Classification: Major  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: OP Monitoring & Report Req'nts No. 7c.  
Description: Failure to submit a noncompliance notification.

Date: 01/31/2007 (584001)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2007 (584003)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2007 (584004)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.  
N/A

G. Type of environmental management systems (EMSs).  
N/A

H. Voluntary on-site compliance assessment dates.  
N/A

I. Participation in a voluntary pollution reduction program.  
N/A

J. Early compliance.  
N/A

Sites Outside of Texas  
N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
PORT TERMINAL RAILROAD  
ASSOCIATION  
RN102800356**

§  
§  
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§  
§  
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**BEFORE THE  
  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-1746-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Port Terminal Railroad Association ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility for a railroad classification and maintenance yard located inside the North Railroad Yard, approximately 400 feet east of North Wayside Drive and 600 feet north of Clinton Drive, approximately 4.5 miles due east of the downtown Houston Central Business District in Harris County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 8, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Two Thousand Eight Hundred Forty Dollars (\$2,840) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Two Hundred Seventy-Two Dollars (\$2,272) of the administrative penalty and Five Hundred Sixty-Eight Dollars (\$568) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent, on October 29, 2007, submitted documentation to the TCEQ identifying the causes of the effluent noncompliances and the corrective measures implemented to ensure permit compliance and documenting compliance with the effluent limits of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11773001. Specifically, the causes of the effluent limit noncompliances were identified as changes by the Respondent's cleaning contractors to volumes and/or types of cleaning agents that impacted the treatment plant performance and effluent quality. The Respondent reported that they are now requiring the cleaning contractor to provide written documentation detailing the type of cleaning products being used and to notify the Respondent in writing prior to making any changes in the future.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with the permit effluent limits, as listed in the table below, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. 11773001, Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on August 30, 2007.





Month/Year	TSS Dly Avg Loading Limit of 1.1 (in lbs/day)	TSS Dly Avg Concentration Limit of 15.0 (in mg/L)
Jan-07	3.04	29.8
Mar-07	1.45	19.8
Apr-07	c	39.4

Abbreviations:      Total Suspended Solids ("TSS")  
                         Daily Average ("Dly Avg")  
                         pounds per day ("lbs/day")  
                         milligrams per liter ("mg/L")  
                         compliant ("c")

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Port Terminal Railroad Association, Docket No. 2007-1746-MWD-E" to:  
  
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.



5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Srdin  
\_\_\_\_\_  
For the Executive Director

3/5/2008  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

M. Wells  
\_\_\_\_\_  
Signature

12-14-07  
\_\_\_\_\_  
Date

Marvin Wells  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Port Terminal Railroad Association

General Manager  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

the first of these is the fact that the system is not a simple one, and that it is not possible to describe it in a simple way. The second is that the system is not a simple one, and that it is not possible to describe it in a simple way.

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